

109TH CONGRESS
1ST SESSION

S. 1396

To amend the Investment Company Act of 1940 to provide incentives for small business investment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2005

Mr. ALLEN (for himself and Mr. SANTORUM) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Investment Company Act of 1940 to provide incentives for small business investment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Increased Capital Ac-
5 cess for Growing Business Act”.

1 **SEC. 2. AMENDMENTS TO THE INVESTMENT COMPANY ACT**
2 **OF 1940.**

3 (a) DEFINITION OF ELIGIBLE PORTFOLIO COM-
4 PANY.—Section 2(a)(46)(C) of the Investment Company
5 Act of 1940 (15 U.S.C. 80a-2(a)(46)(C)) is amended—

6 (1) by striking clause (i) and inserting the fol-
7 lowing:

8 “(i) it does not have any class of eq-
9 uity securities listed for trading on a na-
10 tional securities exchange or traded
11 through the facilities of a national securi-
12 ties association, as described in section
13 15A of the Securities Exchange Act of
14 1934;”;

15 (2) by striking “or” at the end of clause (iii);

16 (3) by redesignating clause (iv) as clause (v);

17 and

18 (4) by inserting after clause (iii) the following:

19 “(iv) the aggregate value of its out-
20 standing publicly traded equity securities is
21 not more than \$250,000,000, except that
22 the Commission may adjust such amount
23 by rule, regulation, or order to reflect
24 changes in one or more generally accepted
25 indices or other indicators for small busi-
26 ness, consistent with the public interest,

1 the protection of investors, and the pur-
2 poses fairly intended by the policy and pro-
3 visions of this title; or”.

4 (b) ASSETS OF BUSINESS DEVELOPMENT COMPA-
5 NIES.—Section 55(a)(1) of the Investment Company Act
6 of 1940 (15 U.S.C. 80a–54(a)(1)) is amended—

7 (1) in subparagraph (B), by striking “securities
8 with respect to which a member of a national securi-
9 ties exchange, broker, or dealer may extend or main-
10 tain credit to or for a customer pursuant to rules or
11 regulations adopted by the Board of Governors of
12 the Federal Reserve System under section 7 of the
13 Securities Exchange Act of 1934” and inserting the
14 following: “equity securities listed for trading on a
15 national securities exchange or traded through the
16 facilities of a national securities association, as de-
17 scribed in section 15A of the Securities Exchange
18 Act of 1934”;

19 (2) by striking “or” at the end of subparagraph
20 (A);

21 (3) by inserting “or” after the semicolon at the
22 end of subparagraph (B); and

23 (4) by inserting after subparagraph (B) the fol-
24 lowing:

1 “(C) from the issuer of such securities,
2 which issuer is described in subparagraphs (A)
3 and (B) of section 2(a)(46), but is not an eligi-
4 ble portfolio company because the aggregate
5 value of its outstanding publicly traded equity
6 securities is more than \$250,000,000 but not
7 more than \$500,000,000, if such securities rep-
8 resent not more than 10 percent of the total as-
9 sets of the business development company in-
10 vested in securities described in paragraphs (1)
11 through (6) of this subsection;”.

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